

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CRYSTAL BRAY and SAMUEL COOK, on	)	
behalf of themselves and all others similarly	)	CASE NO. 1:17-cv-01365-JEJ
situated,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	CLASS ACTION
	)	
GAMESTOP CORPORATION,	)	JURY TRIAL DEMANDED
	)	
Defendant.	)	
	)	

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**PLAINTIFFS' UNOPPOSED MOTION FOR FINAL APPROVAL  
OF THE CLASS ACTION SETTLEMENT**

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*Attorneys for Plaintiffs Crystal Bray and Samuel Cook*

PLEASE TAKE NOTICE that at the Final Approval Hearing scheduled for December 19, 2018 at 9:30 a.m., Plaintiffs will move to have the Court enter the proposed order submitted herewith that will grant their unopposed motion seeking entry of an order granting final approval to the Settlement Agreement and Release.

PLEASE FURTHER NOTE that Plaintiffs will rely on the Memorandum of Law, and other related materials in support of this motion.

PLEASE FURTHER NOTE that Defendant does not oppose this motion.

Dated: December 3, 2018

Respectfully submitted,

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*Crystal Bray and Samuel Cook*

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GAMESTOP CORPORATION,	)	JURY TRIAL DEMANDED
	)	
Defendant.	)	
	)	

**[PROPOSED] ORDER GRANTING FINAL APPROVAL  
OF THE CLASS ACTION SETTLEMENT**

Before the Court is Plaintiffs’ unopposed application requesting that the Court enter an Order granting Final Approval of the Class Action Settlement involving Plaintiffs Crystal Bray and Samuel Cook (hereinafter “Plaintiffs”) and Defendant GameStop Corporation (hereinafter “Defendant”), as fair, reasonable and adequate, awarding attorneys’ fees and costs to Class Counsel as outlined herein, and awarding an incentive payment to Plaintiffs as detailed below.

Having reviewed and considered the Settlement Agreement and the application for final approval of the settlement, an award of attorneys’ fees and costs, and an incentive award to the Plaintiffs, and having conducted a final approval hearing, the Court makes the findings and grants the relief set forth below approving the settlement upon the terms and conditions set forth in this Order.

**WHEREAS**, the Court not being required to conduct a trial on the merits of the case or determine with certainty the factual and legal issues in dispute when determining whether to approve a proposed class action settlement; and

**WHEREAS**, the Court being required under Federal Rule of Civil Procedure 23(e) to make the findings and conclusions hereinafter set forth for the limited purpose of determining

whether the settlement should be approved as being fair, reasonable, adequate and in the best interests of the Settlement Class;

**IT IS ORDERED** that:

1. The settlement involves allegations in Plaintiffs' Class Action Complaint and Jury Demand against Defendant for failure to implement or maintain adequate data security measures for customer information, including Card Information, directly and proximately caused injuries to Plaintiffs and the Class.

2. The settlement does not constitute an admission of liability by Defendant, and the Court expressly does not make any finding of liability or wrongdoing by Defendant.

3. Unless otherwise noted, words spelled in this Order with initial capital letters have the same meaning as set forth in the Settlement Agreement.

4. On August 1, 2018, the Court entered a Preliminary Approval Order which among other things: (a) conditionally certified this matter as a class action, including defining the class and class claims, appointing Plaintiffs as Class Representatives, and appointing Co-Lead Counsel as Class Counsel; (b) preliminarily approved the Settlement Agreement; (c) approved the form and manner of Notice to the Settlement Class; (d) set deadlines for opt-outs and objections; (e) approved and appointed the claims administrator; and (f) set the date for the Final Fairness Hearing.

5. In the Preliminary Approval Order, pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(3), for settlement purposes only, the Court certified the Settlement Class, defined as follows:

All persons residing in the United States who used a credit, debit, or other payment card to make (or attempt to make) a purchase on [www.gamestop.com](http://www.gamestop.com) between June 6, 2016 and February 9, 2017.

Excluded from the Settlement Class are Defendant and its officers, directors, management, employees, predecessors-in-interest, successors-in-interest, assignees or affiliates, and subsidiaries, and the Judge(s) assigned to this case.

6. The Court, having reviewed the terms of the Settlement Agreement submitted by the parties pursuant to Federal Rule of Civil Procedure 23(e)(2), grants final approval of the Settlement Agreement and defines the Settlement Class as defined therein and in the Preliminary Approval Order, and finds that the settlement is fair, reasonable and adequate and meets the requirements of Federal Rule of Civil Procedure 23.

7. The Settlement Agreement provides, in part, and subject to a more detailed description of the settlement terms in that Agreement, for:

- A. Defendant to institute a Settlement Claims Process as outlined in the Settlement Agreement whereby Class Members can submit claims that will be evaluated by a Claims Administrator mutually agreed upon by Class Counsel and Defendant.
- B. Defendant to pay all costs of Claims Administration and Settlement Administration, including the cost of Claims Administrator, emailing and mailing notice, and preparing and mailing checks.
- C. Defendant to pay the reasonable attorneys' fees of Class Counsel.
- D. Class Counsel to pay incentive awards of \$3,750 per Class Representative.

8. The terms of the Settlement Agreement are fair, adequate, and reasonable and are hereby approved, adopted, and incorporated by the Court. The parties, their respective attorneys, and the Claims Administrator are hereby directed to consummate the settlement in accordance with this Order and the terms of the Settlement Agreement.

9. Notice of the Final Approval Hearing, the application for counsel fees and costs, and the proposed payments to the Class Representative have been provided to Settlement Class Members as directed by this Court's Orders, and proof of Notice has been filed with the Court by Defendant.

10. The Court finds that such Notice as therein ordered, constitutes the best possible notice practicable under the circumstances and constitutes valid, due, and sufficient notice to all Settlement Class Members in compliance with the requirements of Federal Rule of Civil Procedure 23(c)(2)(B).

11. As of the Opt-Out deadline, 27 potential settlement class members have requested to be excluded from the Settlement. Their names are set forth in Exhibit A to this Order. Those persons are not bound by this Order, as set forth in the Settlement Order.

12. The Court has considered all the documents filed in support of the settlement, and has fully considered all matters raised, all exhibits and affidavits filed, all evidence received at the final hearing, all other papers and documents comprising the record herein, and all oral arguments presented to the Court.

13. Pursuant to the Settlement Agreement, Defendant, the Claims Administrator, and Class Counsel shall implement the settlement in the manner and time frame as set forth therein.

14. Pursuant to the Settlement Agreement, Plaintiffs and the Settlement Class Members release claims as follows:

any and all claims and causes of action including, without limitation, any causes of action under 18 U.S.C. §§ 2701 *et seq.*, and all similar statutes in effect in any states in the United States as defined herein; violations of the Indiana, North Carolina and similar state consumer protection statutes; negligence; negligence per se; breach of contract; breach of implied contract; breach of fiduciary duty; breach of confidence; invasion of privacy; misrepresentation (whether fraudulent, negligent or innocent); unjust enrichment; bailment; wantonness; failure to provide adequate notice pursuant to any breach notification statute or common law duty; and including, but not limited to, any and all claims for damages, injunctive relief, disgorgement, declaratory relief, equitable relief, attorneys' fees and expenses, pre-judgment interest, credit monitoring services, the creation of a fund for future damages, statutory damages, punitive damages, special damages, exemplary damages, restitution, the appointment of a receiver, and any other form of relief that either has been asserted, or could have been asserted, by any Settlement Class Member against any of the Released Persons based on, relating to, concerning or arising out of the Security Incident and alleged theft of payment card data or other personal information or the allegations, facts, or circumstances described in the Litigation.

Released Claims shall not include the right of any Settlement Class Member or any of the Released Persons to enforce the terms of the settlement contained in this Settlement Agreement, and shall not include the claims of Settlement Class Members who have timely excluded themselves from the Settlement Class.

15. Pursuant to the Settlement Agreement, and in recognition of their efforts on behalf of the Settlement Class, the Court approves payments to Plaintiffs in the total amount of \$3,750 each as an incentive payment for their efforts on behalf of the Settlement Class. Class Counsel shall make such payment in accordance with the terms of the Settlement Agreement.

16. The Court has appointed Benjamin Johns of Chimicles & Tikellis LLP and Cornelius P. Dukelow of Abington Cole + Ellery as Class Counsel.

17. The Court, after careful review of the time entries and rates requested by Class Counsel, and after applying the appropriate standards required by relevant case law, hereby grants Class Counsel's application for attorneys' fees and costs in the amount of \$557,500. Payment shall be made pursuant to the terms of the Settlement Agreement.

18. This Order resolves all claims against all parties in this action and is a final order.

19. The matter is hereby dismissed with prejudice and without costs except that the Court reserves jurisdiction over the consummation and enforcement of the settlement.

\_\_\_\_\_ day of \_\_\_\_\_, 2018

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Honorable John E. Jones III  
United States District Judge

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**MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' UNOPPOSED MOTION  
FOR FINAL APPROVAL OF THE CLASS ACTION SETTLEMENT**

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## I. INTRODUCTION

On August 1, 2018, this Court entered an Amended Order Conditionally Certifying a Settlement Class, Granting Preliminary Approval of the Class Action Settlement, Approving the Form and Manner of Notice, and Scheduling a Final Approval Hearing for December 19 (“Preliminary Approval Order”) Dkt. No. 43.<sup>1</sup> The Preliminary Approval Order approved the Settlement Agreement that had been filed in conjunction with Plaintiffs’ Unopposed Motion for Preliminary Approval by the parties (“SA” or “Settlement”). *See* Dkt. No. 40-1. As set forth below, the notice plan has since been effectuated and no Class Members have objected to the terms of the Settlement. For the reasons discussed below, and because the criteria for final approval under FED. R. CIV. P. 23(e) are met, Plaintiffs respectfully request that the Court grant final approval to the Settlement. Defendant does not oppose this motion.

## II. FACTUAL BACKGROUND

### A. History Of Litigation

The Court is well aware of the factual and procedural history of this case. Plaintiffs are consumers whose personal and non-public information, including their names, addresses, and credit card and debit card numbers, expiration dates, and other information was compromised in a massive security breach of Defendant’s computer servers beginning on or around August 10, 2016 and lasting until February 9, 2017 (the “Data Breach”). Plaintiffs alleged that, *inter alia*, in the wake of the breach, GameStop failed to make meaningful assistance available to its customers, such as fraud insurance or credit monitoring. The Complaint sought to represent a class consisting of all GameStop customers who used a credit or debit card to place (or attempt to place) a purchase on www.gamestop.com between August 10, 2016 and February 9, 2017.

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<sup>1</sup> The initial Order granting Preliminary Approval was entered on July 23, 2018. *See* Dkt. No. 42.

**B. Settlement Negotiations**

As described in the Preliminary Approval motion and brief (*see* Dkt. Nos. 40-41), the parties engaged in a full-day mediation session with private mediator Bennett Picker of Stradley Ronon Stevens & Young LLP in Philadelphia on May 2, 2018. Following the mediation session, the parties reached agreement on the material terms of the settlement. Only after the parties agreed on the framework and material terms of a settlement did they began negotiating (and ultimately agree upon, with the aid of a double-blind mediator's proposal) an appropriate request for attorneys' fees and expenses and Plaintiffs' incentive awards.<sup>2</sup> All terms of the Settlement are the result of extensive, adversarial, and arm's-length negotiations between experienced counsel for all parties.

**C. The Settlement**

As discussed in more detail below, the Settlement provides for cash payments to Class Members for a variety of expenses incurred due to the Data Breach. SA at ¶¶ 2.1-2.2. In addition, as part of settlement negotiations, GameStop made certain representations to Plaintiffs' counsel regarding the measures taken following the breach to increase GameStop's data security measures and consumer information protection procedures. *Id.* at ¶ 2.3.

In exchange for this consideration, Plaintiffs agreed to provide Defendant with a release of claims relating in any way to the alleged conduct that gave rise to this action. SA at ¶ 6. Final approval of the Settlement will also result in the dismissal with prejudice of Plaintiffs' claims against Defendant. *Id.* at ¶ 4.

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<sup>2</sup> Plaintiffs filed an Unopposed Motion for Award of Attorneys' Fees, Expenses and Incentive Awards on November 26, 2018. *See* Dkt. No. 47.

**D. Terms Of The Settlement Agreement**

Each Class Member will have the opportunity to participate in the Settlement claims process by completing a Claim Form accounting for losses claimed as a result of the Data Breach. As more fully explained in the Settlement Agreement, all Class Members who submit a valid claim during the claim period will be entitled to expense reimbursement of up to \$235 for the following categories of potential expenses incurred as a result of the Data Breach:

- between one and three hours of documented lost time spent dealing with replacement card issues or in reversing fraudulent charges (calculated at the rate of \$15 per hour);
- a \$22 payment for each card on which documented fraudulent charges were incurred, even if they were later reimbursed;
- costs of credit report(s) purchased by Settlement Class Members between June 2, 2017 and the date of the Preliminary Approval Order;
- costs of credit monitoring and identity theft protection (not to exceed \$120) purchased by Settlement Class Members between March 16, 2017 and 120 days after the first date of publication of notice; and
- miscellaneous other specified expenses (i.e., unreimbursed charges from banks or credit card companies, bank fees, card reissuance fees, overdraft fees, charges related to unavailability of funds, late fees, and/or over-limit fees; long distance telephone charges; cell minutes, Internet usage charges, and text messages; postage; interest on payday loans due to card cancelation or due to over-limit situation).

SA at ¶ 2.1.

Any Class Members who experienced extraordinary expenses will be eligible for reimbursement in the amount up to \$10,000 per claim. *Id.* at ¶ 2.2. In addition and separate from any payment to Class Members under the provisions described above, Defendant shall pay any and all notice and administration costs associated with the settlement. *Id.* at ¶ 2.4.5.

Each Claim Form that is submitted will be evaluated by an independent claims adjuster, Heffler Claims Group (“Heffler”), who has been mutually agreed upon by the parties. Heffler will make all final decisions concerning the issuance of awards through the Claims Process. The

independent claims adjuster will apply objective industry standards in evaluating claims, which will be accomplished pursuant to the terms of the Settlement Agreement. *See id.* at ¶¶ 2.4.1-2.4.5, 8.1-8.4 The Settlement Agreement clearly delineates the process and procedure in the event a Claim is rejected or a Class Member wishes to contest the decision of the independent claims adjuster and go before a Claims Referee. *Id.* at ¶ 2.4.5. The Settlement Agreement also provides that the independent claims adjuster provide notice of deficiency to Class Members and affords the Class Member the opportunity to cure any defect. *Id.* at ¶¶ 2.4.2-2.4.3. In short, all Settlement Class Members will have the opportunity to realize full recovery for all losses as a result of the Data Breach.

Additional information about the settlement and the negotiations leading up to it can be found in the Declarations of Benjamin F. Johns submitted with Plaintiffs' motions for preliminary approval and for attorneys' fees. *See* Dkt. Nos. 40-2 & 47-1.

**E. Implementation of the Settlement Notice Plan**

Promptly after the Court granted preliminary approval, the parties began working with the claims administrator to provide the Class with the Court-approved notice in accordance with the Settlement. As set forth in the accompanying Declaration of Joseph F. Mahan ("Mahan Decl."), an employee and Client Services Manager for the claims administrator (i.e., Heffler), Heffler provided notice of the proposed settlement reflected in the Settlement Agreement pursuant to the Class Action Fairness Act 28 U.S.C. §1715(b) ("the CAFA Notice"). Mahan Decl., at ¶ 4. Heffler sent the CAFA Notice and an accompanying CD containing the documents required under 28 U.S.C. §1715(b)(1)-(8) to the Attorney General of the United States and 52 state Attorneys General via First-Class Certified Mail, on July 26, 2018. *Id.* Heffler has not received a response to the notification. *Id.*

On July 26, 2018 Heffler received a data file containing 1,420,654 records. The data file's key components were first name, last name, email address, phone number, street address, city, state and zip code. *Id.* at ¶ 5. Heffler performed an analysis of the data and identified the following: (a) 112,904 duplicate records; (b) 16,705 foreign records and; (c) 378 records with no actionable information, resulting in a total of 1,290,667 actionable records. *Id.* Of those, 1,091,192 contained a unique email address and 199,475 contained only a physical address. *Id.*

In August 2018, Heffler (1) obtained a P.O. Box in order to receive requests for exclusion, claim forms, objections, and correspondence from Class Members, and (2) created and is currently hosting a dedicated website for the settlement. *Id.* ¶¶ 6-7. The website contains a summary of the Settlement, frequently asked questions, the Settlement Agreement, the Complaint, the Preliminary Approval Order, the Amended Preliminary Approval Order, the Class Notices, Claim Form, information on the claim filing/exclusion/objection deadlines and allows Class Members the opportunity to file a claim form online. *Id.* ¶ 7. Heffler has also established and is still maintaining a toll-free number for Class Members to call and obtain additional information regarding the settlement. *Id.* ¶ 8.

Heffler received Word versions of the Email Notice, Long Form Notice, Postcard Notice and Claim Form from class counsel; prepared and formatted drafts of the materials that counsel reviewed and approved; and sent Email Notices to the 1,091,192 email addresses on file for Class Members. *Id.* at ¶¶ 9-10.<sup>3</sup> Heffler printed and mailed Postcard Notices to the 199,475 Class Members with only a physical address on file. Heffler also ran the data through the USPS National Change of Address ("NCOA") database and updated the data with the address changes received from NCOA. *Id.* at ¶ 11.

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<sup>3</sup> Heffler also printed and mailed Postcard Notices to the 256,258 Class Members whose initial Email Notice either bounced or unsubscribed. *Id.* at ¶ 12.

As of December 3, 2018, Heffler has received only 50,643 Postcard Notices returned by the USPS as undeliverable as addressed. *Id.* at ¶ 13. Heffler has updated the records in the database to identify these as undeliverable, and ran 45,057 undeliverable records through an address trace process through LexisNexis. *Id.* This skip-tracing process produced 26,039 updated addresses, and Heffler re-mailed Notices to the 26,039 updated addresses obtained from the trace process. *Id.* In addition to the work performed by the claims administrator, Class Counsel has individually contacted putative class members to inform them of the settlement, advise them of deadlines, and assist them with the preparation of claim forms.

Also as of December 3, 2018, Heffler has received and processed only 27 requests for exclusion from the settlement and no objections to the settlement. *Id.* at ¶¶ 15-16. No objections have been filed with the Court, nor received by Plaintiffs' counsel, counsel for GameStop or Heffler.

### III. ARGUMENT

#### A. The Settlement is Fair, Reasonable, and Adequate

Rule 23(e) of the Federal Rules of Civil Procedure requires a determination by the Court that the proposed settlement is “fair, reasonable and adequate.” FED. R. CIV. P. 23(e); *see also In re Warfarin Sodium Antitrust Litig.*, 391 F.3d 516, 534 (3d Cir. 2004) (“*Warfarin II*”). There is a strong judicial policy in favor of resolution of litigation before trial, particularly in “class actions and other complex cases where substantial judicial resources can be conserved by avoiding formal litigation.” *In re CertainTeed Corp. Roofing Shingle Prods. Liab. Litig.*, 269 F.R.D. 468, 484 (E.D. Pa. 2010) (quoting *Ehrheart v. Verizon Wireless*, 609 F.3d 590, 595 (3d Cir. 2010)); *see also In re General Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d 768,

784 (3d Cir. 1995) (“The law favors settlement, particularly in class actions and other complex cases where substantial judicial resources can be conserved by avoiding formal litigation.”).

Settlements enjoy a presumption that they are fair and reasonable when they are the product of arm’s-length negotiations conducted by experienced counsel who are fully familiar with all aspects of class action litigation. *See, e.g., Bredbenner v. Liberty Travel, Inc.*, 2011 WL 1344745, at \*10 (D.N.J. Apr. 8, 2011) (“A class settlement is entitled to an ‘initial presumption of fairness’ when ‘(1) the negotiations occurred at arm’s length; (2) there was sufficient discovery; (3) the proponents of the settlement are experienced in similar litigation; and (4) only a small fraction of the class objected.’”) (quoting *In re General Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d at 785).

The Third Circuit has adopted a nine-factor test to determine whether a settlement is “fair, reasonable, and adequate.” The elements of this test – known as the “*Girsh* factors” – are:

- (1) the complexity and duration of the litigation;
- (2) the reaction of the class to the settlement;
- (3) the stage of the proceedings;
- (4) the risks of establishing liability;
- (5) the risks of establishing damages;
- (6) the risks of maintaining a class action;
- (7) the ability of the defendants to withstand a greater judgment;
- (8) the range of reasonableness of the settlement in light of the best recovery; and
- (9) the range of reasonableness of the settlement in light of all the attendant risks of litigation.

*In re General Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d at 785 (citing *Girsh v. Jepson*, 521 F.2d 153, 157 (3d Cir. 1975)). “These factors are a guide and the absence of one or more does not automatically render the settlement unfair.” *In re Am. Family Enters.*, 256 B.R. 377, 418 (D.N.J. 2000). The Settlement meets each of these factors, and thus, should be approved.

**1. The *Girsh* Factors Weigh in Favor of Approval**

**(a) The complexity, expense, and duration of continued litigation**

The first *Girsh* factor considers “the probable costs, in both time and money, of continued litigation.” *In Re: Cendant Corporation Litigation*, 264 F.3d 201, 233-34 (3d Cir. 1992) (*Cendant II*) (internal quotation marks omitted). “Where the complexity, expense, and duration of litigation are significant, the Court will view this factor as favoring settlement.” *Bredbenner*, 2011 WL 1344745, at \*11. This factor undoubtedly weighs in favor of settlement.

Here, due to the factual and legal complexities involved in this case, continued litigation would have been rigorously contested by Defendant, and would necessarily be expensive and time-consuming. *See In re General Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d at 812 (concluding that lengthy discovery and ardent opposition from the defendant with “a plethora of pretrial motions” were facts favoring settlements, which offer immediate benefits and avoid delay and expense). But for the parties agreeing to settle this matter, discovery would have moved forward at full speed, including comprehensive written discovery and depositions. Indeed, Plaintiffs had already served a comprehensive set of Interrogatories and Requests for Production of Documents (served March 26, 2018). The parties would have engaged in significant additional discovery, and briefed class certification, which would have likely included accompanying expert reports.

Additionally, the risks of substantial delay are palpable. As described above, although the case has already been vigorously litigated, substantial additional work and discovery would be required before the case would be ready to bring to trial. Post-trial motions and appeal would further delay resolution and increase costs. *Warfarin II*, 391 F.3d. at 536 (“it was inevitable that

post-trial motions and appeals would not only further prolong the litigation but also reduce the value of any recovery to the class”).

Under all of the circumstances, a certain result now—rather than an uncertain result potentially years in the future—weighs in favor of approval of the Settlement. For these reasons, the first *Girsh* factor weighs in favor of final approval of the Settlement.

**(b) The reaction of the class to the settlement**

The second *Girsh* factor “attempts to gauge whether members of the class support the Settlement.” *In re Prudential Ins. Co. Am. Sales Practice Litig. Agent Actions*, 148 F.3d 283, 318 (3d Cir. 1998) (“*Prudential II*”). As noted above, as of the date of this filing, there have been no objections to the settlement submitted by Class Members. Under *Girsh*, such a lack of objections favors approval of a class action settlement agreement. A “paucity of protestors . . . militates in favor of the settlement.” *Bell Atl. Corp. v. Bolger*, 2 F.3d 1304, 1314 (3d Cir. 1993); *see also Stoezner v. U. S. Steel Corp.*, 897 F.2d 115, 119 (3d Cir. 1990) (objections by 29 members of a class comprised of 281 “strongly favors settlement”); *In re Prudential Ins. Co. of Am. Sales Practices Litig.*, 962 F. Supp. 450, 537 (D.N.J. 1997) (small number of negative responses to settlement favors approval) (“*Prudential I*”).

Although some Class Members have made the decision to exclude themselves from this Settlement,<sup>4</sup> there are a sufficient number of remaining class members to easily satisfy numerosity and that warrant approving the Settlement. Under the circumstances, this relatively small group of Class Members should not prevent the overwhelming majority of the Class from reaping the benefits made available to them now under the Settlement.

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<sup>4</sup> The names and apartment numbers of those class members who elected to opt out are attached as Exhibit C to the Mahan Declaration.

**(c) The stage of the proceedings**

The stage of the proceedings is another factor that courts consider in determining the fairness, reasonableness and adequacy of a settlement. *In re General Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d at 785. “This factor considers the degree of case development accomplished by counsel prior to settlement.” *Bredbenner*, 2011 WL 1344745 at \*12. Here, Plaintiffs filed a Complaint, briefed a motion to dismiss, filed a motion to appoint lead counsel, compiled and served initial disclosures and discovery, and engaged in confirmatory discovery. This Settlement was reached after both sides endured the rigors of hard-fought motion practice and litigation.

**(d) The risks of establishing liability and damages**

This factor should be considered to “examine what potential rewards (or downside) of litigation might have been had class counsel decided to litigate the claims rather than settle them.” *Cendant II*, 264 F.3d at 237 (quoting *In re General Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d at 814). “The inquiry requires a balancing of the likelihood of success if the case were taken to trial against the benefits of immediate settlement.” *In re Safety Components, Inc. Sec. Litig.*, 166 F. Supp. 2d 72, 89 (D.N.J. 2001).

In addition to liability, courts also consider risks associated with proving damages. In *In re Warfarin Sodium Antitrust Litig.*, 212 F.R.D. 231, 256 (D. Del. 2002) (“*Warfarin I*”), *aff’d* 391 F.3d 516, 537 (3d Cir. 2004), the trial court found that the risk of establishing damages strongly favored settlement, observing that “[d]amages would likely be established at trial through ‘a “battle of experts,” with each side presenting its figures to the jury and with no guarantee whom the jury would believe.’” Similarly, in *Cendant II*, the Third Circuit reasoned that there was no compelling reason to think that “a jury confronted with competing expert

opinions” would accept the plaintiff’s damages theory rather than that of the defendant, and thus the risk in establishing damages weighed in favor of approval of the settlement. 264 F.3d at 239.

Although Class Counsel believe that GameStop’s liability in this case is clear,<sup>5</sup> there remain other issues in dispute, such as the applicable burden of proof for damages, amount of recoverable damages, and ability to recover punitive damages. Defendant has zealously defended against these issues, and would have continued to do so if the case proceeded. In addition, there are risks associated with prevailing on summary judgment. The Settlement, on the other hand, presents the Class with real relief now.

**(e) The risks of certifying and maintaining a litigation class through trial**

Because the prospects for obtaining class certification have a great impact on the range of recovery one can expect to reap from the class action, *see In re General Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d at 817, the Court must measure the likelihood of obtaining and maintaining a certified class if the action were to proceed to trial. *Girsh*, 521 F.2d at 157. There is always a risk that the Court would find this action not suitable for class certification, as seen in other courts that have denied class certification in these cases. *See, e.g., In re Hannaford Bros. Co. Customer Data Sec. Breach Litig.*, 293 F.R.D. 21 (D. Me. 2013) (denying class certification after determining that Rule 23(b)(3)’s predominance requirement was not satisfied); *In re Anthem, Inc. Data Breach Litig.*, No. 15-MD-02617-LHK, 2018 U.S. Dist. LEXIS 140137, at \*107 (N.D. Cal. Aug. 17, 2018) (“ . . . class certification was not guaranteed, in part because Plaintiffs had a scarcity of precedent to draw on. The parties represent that only

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<sup>5</sup> GameStop does not concede and, by way of Settlement, in no way admits any liability in connection with the Data Breach.

one non-settlement data-breach class has been certified in federal court to date, and that case post-dates Plaintiffs' filing of their motion for class certification.”).

**(f) Defendant’s ability to withstand greater judgment**

Although there is no dispute that Defendant has ample resources, countless settlements have been approved where a settling defendant has had the ability to pay greater amounts, and the Third Circuit has noted that this fact alone does not weigh against settlement approval. *See, e.g., Warfarin II*, 391 F.3d at 538. This factor is generally neutral when the defendant’s ability to pay greatly exceeds the potential liability, and was not a factor in settlement negotiations. *CertainTeed*, 269 F.R.D. at 489 (“because ability to pay was not an issue in the settlement negotiations, this factor is neutral”); *Bredbenner*, 2011 WL 1344745, at \*15 (“courts in this district regularly find a settlement to be fair even though the defendant has the practical ability to pay greater amounts”).

**(g) Reasonableness of the settlement in light of the best possible recovery and all attendant risks of litigation**

The final two *Girsh* factors assess the reasonableness of the settlement in light of the best possible recovery, and all the attendant risks of litigation. These factors, too, support approval of this Settlement and its benefits. As set forth herein, this Settlement offers real economic benefits to those Class Members who elect to participate in it. This factor supports the granting of final approval.

**2. The Relevant *Prudential* and *Baby Products* Factors Also Support Settlement.**

The Third Circuit has articulated other factors that can be relevant to the evaluation of some, but not all, class settlements. In *Prudential II*, the Third Circuit identified several additional factors that “are illustrative of additional inquiries that in many instances will be

useful for a thoroughgoing analysis of a settlement’s terms.” *In re Pet Food Prods. Liab. Litig.*, 629 F.3d 333, 350 (3d Cir. 2010). Those additional factors are the following:

[1] [T]he maturity of the underlying substantive issues, as measured by experience in adjudicating individual actions, the development of scientific knowledge, the extent of discovery on the merits, and other factors that bear on the ability to assess the probable outcome of a trial on the merits of liability and individual damages; the existence and probable outcome of claims by other classes and subclasses; [2] the comparison between the results achieved by the settlement for individual class or subclass members and the results achieved—or likely to be achieved—for other claimants; [3] whether class or subclass members are accorded the right to opt out of the settlement; [4] whether any provisions for attorneys’ fees are reasonable; and [5] whether the procedure for processing individual claims under the settlement is fair and reasonable.

*Prudential II*, 148 F.3d at 323. Although not all of the *Prudential* factors are relevant to approval of the proposed Settlement, those that are weigh in favor of final approval.

First, the underlying substantive issues in this case are mature. As discussed above, the parties briefed a motion to dismiss, which crystalized the claims that would be at issue going forward. Second, all individual Settlement Class Members are being treated fairly. Third, as discussed above, Settlement Class Members were provided with robust notice and were provided with the opportunity to opt-out, which some Class Members did. Fourth, the fees requested are reasonable, as more fully discussed in Plaintiffs’ fee petition. *See* Dkt. No. 47. Finally, the claims process is clearly set out in the Settlement and accompanying papers, and Settlement Class Members have ample time to seek assistance, if necessary, and to complete a Claim Package.

The Third Circuit added an additional factor in *In re Baby Prods. Antitrust Litig.*, 708 F.3d 163 (3d Cir. 2013), in which it examined the degree to which a proposed settlement provided a “direct benefit” to the class. *Id.* at 174; *see also McDonough v. Toys R. Us, Inc.*, 80 F. Supp. 3d 626, 650-51 (E.D. Pa. 2015) (discussing “*Baby Products* factor”). Here, Class Members that fill out a Claim Form and do not request exclusion receive a direct benefit from the

Settlement. For all the foregoing reasons, the proposed Settlement satisfies the factors articulated by the Third Circuit and should be approved as fair, reasonable, and adequate.

**B. The Notice Program is Constitutionally Sound and Has Been Fully Implemented**

To protect the rights of absent members of the Class, the Court must ensure that all Class Members who would be bound by a class settlement are provided the best practicable notice. *See* FED. R. CIV. P. 23(e)(1)(B); *Phillips Petroleum Co. v. Shutts*, 472 U.S. 797, 811-12 (1985). The best practicable notice is that which is “reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections.” *Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

The form and manner of Notice was negotiated and agreed upon by the Parties, approved by this Court, and meets these requirements. As detailed above and in the Mahan Declaration, the direct Notice program involved sending via U.S. Mail and e-mail the class notice and claim forms to everyone for whom contact information was available. The direct mail notice sent to all reasonably identifiable Class Members, supplemented by the other forms of notice, provided the best notice practical under the circumstances, giving Class Members a full and fair opportunity to consider the terms of the Settlement and make a fully informed decision as to whether to participate, object, or opt-out of the Settlement. *Eisen v. Carlisle & Jacquelin*, 417 U.S. 156, 173 (1974) (noting that individual notice is preferred method where addresses of class members can be ascertained through reasonable effort). Therefore, the Notice fulfilled the requirements of due process and those of Rule 23(c)(2) of the Federal Rules of Civil Procedure.

**C. The Settlement Class Should Be Certified**

Finally, the class should be certified for purposes of final approval. Class certification under Rule 23 has two primary components. First, the party seeking class certification must first

establish the four requirements of Rule 23(a): “(1) numerosity (a ‘class [so large] that joinder of all members is impracticable’); (2) commonality (‘questions of law or fact common to the class’); (3) typicality (named parties’ claims or defenses ‘are typical . . . of the class’); and (4) adequacy of representation (representatives ‘will fairly and adequately protect the interests of the class’).” *Warfarin II*, 391 F.3d at 527. Second, the Court must find that the class fits within one of the three categories of class actions set forth in Rule 23(b). *In re Community Bank of No. Virginia*, 418 F.3d 277, 302 (3d Cir. 2005). In the present case, Plaintiffs seek certification under Rule 23(b)(3), “the customary vehicle for damage actions.” *Id.* Rule 23(b)(3) requires that common questions “predominate over any questions affecting only individual members” and that class resolution be “superior to other available methods for the fair and efficient adjudication of the controversy.” *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 592-93 (1997).

As discussed in detail below, all the Rule 23 requirements for a settlement class are met here. The Court was correct in preliminarily certifying the Class for settlement purposes pursuant to Rules 23(a) and (b)(3), and nothing has changed to alter the propriety of that conclusion.

### **1. The Rule 23(a) Factors Are Met**

As discussed below, Plaintiffs and the Class meet the requirements of Rule 23(a), which are commonly referred to as numerosity, commonality, typicality, and adequacy of representation. *See Warfarin Sodium II*, 391 F.3d at 527.

#### **(a) Numerosity**

Rule 23(a)(1) requires that the class be so numerous that joinder of all class members is “impracticable.” *Liberty Lincoln Mercury, Inc. v. Ford Mktg. Corp.*, 149 F.R.D. 65, 73 (D.N.J. 1993). “Impracticable” does not mean impossible, “only that common sense suggests that it would be difficult or inconvenient to join all class members.” *See Prudential I*, 962 F. Supp. at

510; *see also Stewart v. Abraham*, 275 F.3d 220, 226-27 (3d Cir. 2001). The Class consists of thousands of Class Members, which is sufficient to meet this criterial. *Feret v. CoreStates Fin. Corp.*, No. 97-6759, 1998 U.S. Dist. LEXIS 12734, at \*18-19 (E.D. Pa. Aug. 18, 1998) (“Indeed, classes with as few as 25 or 30 members have been certified by some courts.”) (collecting cases).

**(b) Commonality**

“Rule 23(a)(2)’s commonality element requires that the proposed class members share at least one question of fact or law in common with each other.” *Warfarin II*, 391 F.3d at 527-28. “Commonality does not require perfect identity of questions of law or fact among all class members. Rather, even a single common issue will do.” *Reyes v. Netdeposit, LLC*, 802 F.3d 469, 486 (3d Cir. 2015) (internal quotation marks omitted). Here, Plaintiffs submit that the Settlement Class Members share many common issues of law and fact. All of their claims relate to and arise from the same Data Breach. Commonality is satisfied for purposes of the settlement.

**(c) Typicality**

In considering typicality under Rule 23(a)(3), the court must determine whether “the named plaintiffs[‘] individual circumstances are markedly different or . . . the legal theory upon which the claims are based differs from that upon which the claims of other class members will perforce be based.” *Johnston v. HBO Film Mgmt., Inc.*, 265 F.3d 178, 184 (3d Cir. 2001). Typicality does not require that all class members share identical claims. *Id.* So long as “the claims of the named plaintiffs and putative class members involve the same conduct by the defendant, typicality is usually established regardless of factual differences.” *Newton v. Merrill Lynch, Pierce, Fenner & Smith, Inc.*, 259 F.3d 154, 183-84 (3d Cir. 2001).

The proposed Class Representatives are victims of the Data Breach and are alleged to have been impacted by and suffered damages a result of the Data Breach. They allege that they

have put forth the same injury as the other Class Members, caused by a uniform course of conduct. As such, the typicality requirement is satisfied.

**(d) Adequacy**

The adequacy requirement has two components intended to ensure that the absent class members interests are protected: (a) the named plaintiffs' interests must be sufficiently aligned with the interests of the class, and (b) the plaintiffs' counsel must be qualified to represent the class. *In re General Motors Corp. Pick-Up Truck Fuel Tank Prods. Liab. Litig.*, 55 F.3d at 800. Here, the requirements for adequacy are satisfied.

As for the first component, the Court must determine whether "the representatives' interests conflict with those of the class." *Johnston*, 265 F.3d at 185. Plaintiffs submit that there is no conflict between the proposed Class Representatives and the Class, because, as with all members of the Class, Plaintiffs seek to recover losses stemming from the Data Breach which jeopardized their sensitive financial information tendered to Defendant in conjunction with making purchases on its website. Plaintiffs have no interests that are in conflict with the Class they seek to represent and their alleged injuries are identical to those suffered by Settlement Class members. *See Amchem*, 521 U.S. at 625-27 (courts look at whether the representatives' interest are in any way antagonistic to or in conflict with those of the class members).

As far as the adequacy of counsel is concerned, the Class is represented by Chimicles & Tikellis LLP and Abington Cole + Ellery, law firms with national reputations in the class action field, as demonstrated by the firm resumes submitted in connection with the Motion for Preliminary Approval. Accordingly, both prongs of the adequacy inquiry are satisfied.

## 2. The Rule 23(b)(3) Factors Are Met

In addition to meeting the requirements of Rule 23(a), the Class also must satisfy Rule 23(b)(3). Plaintiffs submit that the rule is satisfied here because questions of law or fact common to the Class Members predominate over any questions affecting only individual Class Members in light of the proposed Settlement, which eliminates any individual issues, and a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

### (a) Predominance

Rule 23(b)(3) requires that “questions of law or fact common to class members predominate over any questions affecting only individual members.” As the Supreme Court explained in *Amchem*, “[p]redominance is a test readily met in certain cases alleging consumer fraud . . . .” 521 U.S. at 625. “Common issues predominate when the focus is on the defendants’ conduct and not on the conduct of the individual class members.” *In re Mercedes-Benz Antitrust Litig.*, 213 F.R.D. 180, 187 (D.N.J. 2003).

Plaintiffs submit that the key questions posed in this case—all of which relate to losses stemming from the Data Breach—are common ones. If resolved in one stroke, those issues would substantially advance the litigation. *See, e.g., In re Whirlpool Corp. Front-Loading Washer Prods. Liab. Litig.*, 722 F.3d 838, 859 (6th Cir. 2013).

### (b) Superiority

Rule 23(b)(3) also requires that class resolution be “superior to other available methods for fairly and efficiently adjudicating the controversy.” The following factors are relevant to the superiority inquiry:

(A) the class members’ interests in individually controlling the prosecution or defense of separate actions; (B) the extent and nature of any litigation concerning the controversy already begun by or against class members; (C) the desirability or

undesirability of concentrating the litigation of the claims in the particular forum;  
(D) the likely difficulties in managing a class action.

*Id.*; see also *Danvers Motor Co., Inc. v. Ford Motor Co.*, 543 F.3d 141, 149 (3d Cir. 2008).

The superiority inquiry is simplified in the settlement context because the Court need not inquire whether the case, if tried, would pose intractable management problems, for the purpose of the settlement is to not have a trial. *Amchem*, 521 U.S. at 620.

Here, Plaintiffs submit that a class action settlement is the superior method of resolving the claims of Class Members who have not elected to exclude themselves from the Settlement. It ensures that the claims of the Class Members will be resolved efficiently and without further delay. See *O'Brien v. Brain Research Labs, LLC*, No. 12-204, 2012 WL 3242365, at \*9 (D.N.J. Aug. 9, 2012) (finding superiority because, *inter alia*, “denying certification would require each consumer to file suit individually at the expense of judicial economy”). By contrast, future individualized litigation carries with it great uncertainty, risk, and costs, and provides no guaranty that injured plaintiffs will obtain necessary and timely compensatory relief at the conclusion of the litigation. See *Varacallo*, 226 F.R.D. at 234 (“Without question, class adjudication of this matter will achieve an appreciable savings of effort, time and expense, and will promote uniformity of decision on the issues resolved and to which the parties will be bound.”).

#### IV. CONCLUSION

Because the Settlement that Plaintiffs reached with Defendant is fair, reasonable, and adequate, and because the Settlement Class meets all applicable requirements of Rule 23(a) and 23(b)(3), Plaintiffs respectfully submit that certification of the class and final approval of the Settlement is warranted. A proposed Order granting this relief, and dismissing the matter with prejudice, is submitted herewith.

Dated: December 3, 2018

Respectfully submitted,

By: /s/ Robert J. Kriner, Jr.  
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*Co-Lead Counsel for Plaintiffs*

**CERTIFICATE OF SERVICE**

I, Robert J. Kriner, Jr., hereby certify that the foregoing PLAINTIFF'S UNOPPOSED MOTION FOR FINAL APPROVAL OF THE CLASS ACTION SETTLEMENT was filed on this 3rd day of December 2018 using the Court's CM/ECF system, thereby electronically serving it on all counsel of record in this case.

/s/ Robert J. Kriner, Jr.

Robert J. Kriner, Jr.

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CRYSTAL BRAY and SAMUEL COOK, on	)	
behalf of themselves and all others similarly	)	CASE NO. 1:17-cv-01365-JEJ
situated,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	<b>DECLARATION OF</b>
	)	<b>JOSEPH F. MAHAN IN SUPPORT OF</b>
GAMESTOP CORPORATION,	)	<b>FINAL APPROVAL</b>
	)	
Defendant.	)	
	)	

I, Joseph F. Mahan, declare as follows:

1. I am a Client Services Manager for Heffler Claims Group (“Heffler”) in Philadelphia, Pennsylvania. I am over twenty-one years of age and am authorized to make this declaration on behalf of Heffler and myself. The following statements are based on my personal knowledge and information provided by other experienced Heffler employees working under my supervision. This declaration is being filed in support of final approval. If called as a witness I could and would testify competently thereto.

2. Heffler has extensive experience in class action matters, having provided services in class action settlements involving antitrust, securities fraud, employment and labor, consumer, and government enforcement matters. Heffler has provided notification and/or claims administration services in more than 1,000 cases.

3. Heffler was appointed as the Claims Administrator to provide notification and claims administration services in this case, *Bray, et al. v. GameStop Corp. Settlement*, Case No. 17-cv-01365-JEJ, referred to herein as the “Settlement.” Heffler’s duties in this Settlement have and will include: (a) preparing and sending notice under the Class Action Fairness Act 28 U.S.C. §1715(b) (“CAFA”); (b) receiving and analyzing the Class Member Data (“the Class List”) from defense counsel; (c) establishing a post office box for the receipt of mail; (d) creating a website

with online claim filing capabilities; (e) establishing a toll-free number; (f) preparing and sending Email Notice and Postcard Notice; (g) receiving and processing opt-outs and objections; (h) receiving and processing claim forms; and (i) such other tasks as counsel for the parties or the Court orders Heffler to perform. Throughout its work on this case, Heffler has provided counsel with regular updates on the status of these tasks.

4. On behalf of the Defendant, Heffler provided notice of the proposed settlement reflected in the Settlement Agreement pursuant to CAFA. At Defense Counsel's direction, Heffler sent the CAFA Notice, attached hereto as **Exhibit A**, and an accompanying CD containing the documents required under 28 U.S.C. §1715(b)(1)-(8) to the Attorney General of the United States and 52 state Attorneys General identified in the Manifest for the CAFA Notice via First-Class Certified Mail, on July 26, 2018. To date, Heffler has not received a response to this notification.

5. On July 26, 2018, Heffler received a data file from the Defendant containing 1,420,654 records. The data file's key components were first name, last name, email address, phone number, street address, city, state and zip code. Heffler performed an analysis of the data and identified the following: (a) 112,904 duplicate records; (b) 16,705 foreign records and; (c) 378 records with no actionable information, resulting in a total of 1,290,667 actionable records. Of those, 1,091,192 contained a unique email address and 199,475 contained only a physical address.

6. On August 1, 2018, Heffler obtained a post office box with the mailing address *Bray et al v. GameStop Corporation*, c/o Claims Administrator, P.O. Box 8268, Philadelphia, PA 19101-8268 in order to receive requests for exclusion, claim forms, objections, and correspondence from Class Members.

7. In August 2018, Heffler created and is currently hosting a dedicated website entitled [www.BraySecurityBreachSettlement.com](http://www.BraySecurityBreachSettlement.com). The website went live on August 15, 2018. The website contains a summary of the Settlement, frequently asked questions, the Settlement Agreement, the Complaint, the Preliminary Approval Order, the Amended Preliminary Approval Order, the Class Notices, Claim Form, Plaintiffs' Motion for attorneys' fees and related materials, information on the claim filing/exclusion/objection deadlines and allows Class Members the

opportunity to file a claim form online. At the direction of counsel, Heffler will also be posting this declaration and Plaintiffs' motion for final approval on the settlement website after they are filed with the Court.

8. On July 26, 2018, Heffler established and is still maintaining a toll-free number, 1-844-245-3771, for Class Members to call and obtain additional information regarding the settlement using an Interactive Voice Response ("IVR") system along with live operator support. As of December 3, 2018, 2,411 Class Members have called the IVR and 1,254 calls have been directed to a live operator.

9. On or about July 17, 2018, Heffler received word versions of the Email Notice, Long Form Notice, Postcard Notice and Claim Form from counsel. Heffler prepared and formatted drafts of the materials that counsel reviewed and approved. True and correct copies of the Email Notice, Long Form Notice, Postcard Notice and Claim Form are attached hereto as **Exhibit B**.

10. On August 15, 2018, Heffler caused the sending of Email Notices to the 1,091,192 email addresses on file for Class Members. Of the 1,091,192 Emails sent 254,954 Emails bounced and 1,574 Class Members unsubscribed.

11. On August 15, 2018, Heffler caused the printing and mailing of Postcard Notices to the 199,475 Class Members with only a physical address on file. In order to provide the best notice practicable, Heffler ran the data through the USPS National Change of Address ("NCOA") database and updated the data with the address changes received from NCOA.

12. On September 26, 2018, Heffler caused the printing and mailing of Postcard Notices to the 256,258 Class Members whose initial Email Notice either bounced or unsubscribed as described in paragraph 10.

13. As of December 3, 2018, Heffler has received 50,643 Postcard Notices returned by the USPS as undeliverable as addressed. Heffler has updated the records in the database to identify these as undeliverable. Heffler ran 45,057 undeliverable records through an address trace process through LexisNexis. The skip-tracing produced 26,039 updated addresses. Heffler has re-mailed Notices to the 26,039 updated addresses obtained from the trace process.

14. As of December 3, 2018, Heffler, has received 1,608 notices returned by the USPS with a forwarding address. Heffler re-mailed 1,340 notices to the updated addresses provided by the USPS and will continue to re-mail as received.

15. As of December 3, 2018, Heffler has received and processed 27 requests for exclusion from the settlement and no objections to the settlement. The names of the individuals who requested exclusion from the settlement are attached hereto as **Exhibit C**.

16. As of December 3, 2018, Heffler has not received any objections to the settlement.

I declare under penalty of perjury under the laws of the United States that the above is true and correct to the best of my knowledge and that this Declaration was executed on December 3, 2018 in Philadelphia, Pennsylvania.

  
JOSEPH F. MAHAN

# Exhibit A



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**JULY 26, 2018**

VIA FIRST CLASS CERTIFIED MAIL

To: All “Appropriate” Federal and State Officials Per 28 U.S.C. § 1715  
(see attached distribution list)

Re: CAFA Notice for the Proposed Settlement in *Bray, et al. v. GameStop Corp.*, Case No.  
17-cv-01365-JEJ in the United States District Court for the District of Delaware

Ladies and Gentlemen:

Pursuant to Section 3 of the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1715, Defendant GameStop Corporation (“Defendant” or “GameStop”) hereby notifies you of the proposed settlement of the above-captioned action (the “Action”) currently pending in the United States District Court for the District of Delaware (the “Court”).

28 U.S.C. § 1715(b) lists eight items that must be provided to you in connection with any proposed class action settlement. Each of these items is addressed below:

1. 28 U.S.C. § 1715 (b)(1) - a copy of the complaint and any materials filed with the complaint and any amended complaints.

The Complaint is provided in electronic form on the enclosed CD as Exhibit A.

2. 28 U.S.C. § 1715 (b)(2) - notice of any scheduled judicial hearing in the class action.

On July 23, 2018, the Court granted Plaintiffs’ motion for preliminary approval of the class action, and scheduled a final approval hearing for October 25, 2018 10:30 a.m., Courtroom #2 of the U.S. Courthouse & Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania, 17108. A copy of the Notice of Uncontested Motion for Preliminary Approval and Memorandum in Support of along with the Order granting Preliminary Approval is provided in electronic form on the enclosed CD as Exhibit B

3. 28 U.S.C. § 1715(b)(3) - any proposed or final notification to class members.

A copy of the proposed Notices of settlement and Claim Form that will be provided to class members by email, first-class mail, and will be available on the website created for the administration of this matter are provided on the enclosed CD as Exhibits C-1,

C-2, C-3, and C-4. The Notices describe the class member's right to exclude themselves from the class.

4. 28 U.S.C. § 1715(b)(4) - any proposed or final class action settlement.

The proposed class action settlement is set forth in the Settlement Agreement, a copy of which is provided on the enclosed CD as Exhibit D.

5. 28 U.S.C. § 1715(b)(5) - any settlement or other agreement contemporaneously made between class counsel and counsel for defendants.

There are no other settlements or other agreements between class counsel and counsel for Defendant beyond what is set forth in the Settlement Agreement.

6. 28 U.S.C. § 1715(b)(6) - any final judgment or notice of dismissal.

There has been no final judgment or notice of dismissal. A copy of the proposed Order Approving the Settlement is provided on the enclosed CD as Exhibit E.

7. 28 U.S.C. § 1715(b)(7) – (A) If feasible, the names of class members who reside in each State and the estimated proportionate share of the claims of such members to the entire settlement to that State's appropriate State official; or (B) if the provision of the information under subparagraph (A) is not feasible, a reasonable estimate of the number of class members residing in each State and the estimated proportionate share of the claims of such members to the entire settlement.

The definition of the class in the proposed Settlement Agreement includes all persons residing in the United States who placed or attempted to place orders on GameStop's website from August 10, 2016 to February 9, 2017. A breakdown of the class is provided on the enclosed CD as Exhibit F.

8. 28 U.S.C. § 1715(b)(8) - any written judicial opinion relating to the materials described in 28 U.S.C. § 1715(b) subparagraphs (3) through (6).

A copy of the Order granting preliminary approval of the settlement agreement is provided on the enclosed CD as Exhibit B.

If you have any questions about this notice, the Action, or the enclosed materials, please contact the undersigned counsel for Defendant listed below.

Sincerely,



Paul G. Karlsgodt

## SERVICE LIST FOR CAFA NOTICE

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Jackson, MS 39205

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San Juan, PR 00902

Jeff B. Sessions  
Attorney General  
United States Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

# Exhibit B

From: [noreply@hefflerclaims.com](mailto:noreply@hefflerclaims.com)  
To: John Smith  
Re: **Data Breach Class Action Settlement – GameStop.com Customers**

**If you used a credit, debit, or other payment card to make a purchase from GameStop online, you may be eligible for a payment from a class action settlement.**

*Si desea recibir esta notificación en español, llámenos o visite nuestra página web.*

Class Member ID: <<refnum>>  
*Retain this number. You will need this to file a claim.*

A Settlement has been reached in a class action lawsuit concerning a cyber-attack against GameStop Corporation (“GameStop”) which resulted from criminals accessing its computer systems (the “Security Incident”). The Security Incident happened between August 10, 2016 and February 9, 2017, and potentially resulted in unauthorized access to customer payment card data and other personally identifying information. GameStop denies all of the claims and says it did not do anything wrong.

**Who Is Included?**

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**You received this email because GameStop records show you are a likely member of the Settlement Class.** The Settlement Class includes all persons residing in the United States who used a credit, debit or other payment card to make (or attempt to make) a purchase on [www.gamestop.com](http://www.gamestop.com) between August 10, 2016 and February 9, 2017.

**Settlement Benefits.**

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The Settlement provides two types of payments to people who submit valid claims: 1) Reimbursement of up to \$235 for out-of-pocket expenses and documented lost time that resulted from the Security Incident; and 2) Reimbursement of up to \$10,000 for extraordinary expenses which were more likely than not caused by the Security Incident.

**The Only Way To Receive A Benefit Is To File A Claim.**

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To get a Claim Form, visit the website [www.BraySecurityBreachSettlement.com](http://www.BraySecurityBreachSettlement.com) or call 1-844-245-3771. The claim deadline is **December 13, 2018**.

**Other Options.**

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If you do nothing, you will remain in the class, you will not be eligible for benefits, and you will be bound by the decisions of the Court and give up your rights to sue GameStop for the claims resolved by this Settlement. If you do not want to be legally bound by the Settlement, you must request to be excluded by **December 13, 2018**. The court will exclude you from the Settlement if requested by that date. If you stay in the Settlement, you may object to it by **December 13, 2018**. A more detailed notice is available to explain how to exclude yourself or object. Please visit the website [www.BraySecurityBreachSettlement.com](http://www.BraySecurityBreachSettlement.com) or call 1-844-245-3771 for a copy of the more detailed notice. On **December 19, 2018**, the Court will hold a Fairness Hearing to determine whether to approve the Settlement, Class Counsel’s request for attorneys’ fees and reasonable costs of \$557,500, and an Incentive Award of

\$3,750 for each of the Representative Plaintiffs. The Motion for attorneys' fees will be posted on the website after they are filed. You or your own lawyer, if you have one, may ask to appear and speak at the hearing at your own cost, but you do not have to. This is only a summary. Detailed information is available at the website [www.BraySecurityBreachSettlement.com](http://www.BraySecurityBreachSettlement.com) or by calling toll-free at 1-844-245-3771.

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Bray et al v. GameStop Corporation  
c/o Claims Administrator  
PO Box 8268  
Philadelphia, PA 19101-8268

UNITED STATES DISTRICT COURT DISTRICT OF DELAWARE

**If you purchased video gaming devices and/or accessories from GameStop online using a credit, debit, or other payment card, you may be eligible for a payment from a class action settlement.**

*A court authorized this notice. This is not a solicitation from a lawyer.*

*Si desea recibir esta notificación en español, llámenos o visite nuestra página web.*

- A Settlement has been reached with GameStop Corporation (“GameStop”) in a class action lawsuit about a data security incident that occurred between August 10, 2016 and February 9, 2017.
- From on or about August 10, 2016 to February 9, 2017, GameStop was the victim of a cyber-attack in which criminals accessed its computer systems (the “Security Incident”). The Security Incident potentially resulted in unauthorized access to customer payment card data and other personally identifying information. Subsequently, this lawsuit was filed asserting claims against GameStop relating to the Security Incident.
- The Settlement includes all persons residing in the United States who used a credit, debit or other payment card to make (or attempt to make) a purchase on [www.gamestop.com](http://www.gamestop.com) between August 10, 2016 and February 9, 2017.
- The Settlement provides payments to people who submit valid claims for out-of-pocket expenses and charges that were incurred and plausibly arose from the Security Incident, and for other extraordinary unreimbursed monetary losses.

**Your legal rights are affected even if you do nothing. Read this Notice carefully.**

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT</b>	
<b>Submit a Claim</b>	The only way to get a payment.
<b>Ask to be Excluded</b>	Get no payment. The only option that allows you to sue GameStop over the claims resolved by this Settlement.
<b>Object</b>	Write to the Court about why you do not like the Settlement.
<b>Do Nothing</b>	Get no payment. Give up rights.

- These rights and options – **and the deadlines to exercise them** – are explained in this notice.
- The Court in charge of this case still has to decide whether to grant final approval of the Settlement. Payments will only be made after the Court grants final approval of the Settlement and after any appeals are resolved.

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**What This Notice Contains**

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**BASIC INFORMATION..... Page 3**

- 1. Why was this Notice issued?
- 2. What is this lawsuit about?
- 3. Why is this lawsuit a class action?
- 4. Why is there a Settlement?

**WHO IS IN THE SETTLEMENT? ..... Page 3**

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**THE SETTLEMENT BENEFITS ..... Page 4**

- 7. What does the Settlement provide?
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- 12. Do I need to do anything to remain in the Settlement?
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**THE LAWYERS REPRESENTING YOU ..... Page 6**

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- 21. When and where will the Court decide whether to approve the Settlement?
- 22. Do I have to attend the hearing?
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**GETTING MORE INFORMATION..... Page 9**

- 25. How do I get more information?

## BASIC INFORMATION

### 1. Why was this Notice issued?

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The Court authorized this notice because you have a right to know about the proposed Settlement in this class action lawsuit and about all of your options before the Court decides whether to give “final approval” to the Settlement. This notice explains the legal rights and options that you may exercise before the Court decides whether to approve the Settlement.

Judge John E. Jones, III of the United States District Court for the District of Delaware is overseeing this case. The case is known as *Bray, et al. v. GameStop Corp.*, Case No. 17-cv-01365-JEJ. The persons who sued are called the Plaintiffs. GameStop is called the Defendant.

### 2. What is this lawsuit about?

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The lawsuit claims that GameStop was responsible for the Security Incident that occurred and asserts claims such as: negligence, negligence per se, breach of contract, breach of implied contract, unjust enrichment and violation of the Indiana and North Carolina consumer protection statutes. The lawsuit seeks compensation for people who had losses as a result of the Security Incident.

GameStop denies all of the Plaintiffs’ claims and says it did not do anything wrong.

### 3. Why is this lawsuit a class action?

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In a class action, one or more people called “Representative Plaintiffs” sue on behalf of all people who have similar claims. All of these people together are the “Class” or “Class Members.” In this case, the Representative Plaintiffs are Crystal Bray and Samuel Cook. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

### 4. Why is there a Settlement?

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By agreeing to settle, both sides avoid the cost and risk of a trial, and people who submit valid claims will get compensation. The Representative Plaintiffs and their attorneys believe the Settlement is fair, reasonable, and adequate and, thus, best for the Class and its members. The Settlement does not mean that GameStop did anything wrong.

## WHO IS IN THE SETTLEMENT?

### 5. How do I know if I am included in the Settlement?

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You are included in the Settlement Class if you reside in the United States and used a credit, debit or other payment card to make (or attempt to make) a purchase on [www.gamestop.com](http://www.gamestop.com) between August 10, 2016 and February 9, 2017.

Specifically excluded from the Settlement Class are: (i) GameStop and its officers and directors; (ii) all Settlement Class Members who timely and validly request exclusion from the Settlement Class; (iii) the Judge assigned to evaluate the fairness of this settlement; and (iv) any other Person found by a court of competent

jurisdiction to be guilty under criminal law of initiating, causing, aiding, or abetting the criminal activity occurrence of the Security Incident or who pleads *nolo contendere* (a no-contest plea, while not technically a guilty plea, has the same immediate effect as a guilty plea and is often offered as part of a plea bargain) to any such charge.

## **6. What if I am not sure whether I am included in the Settlement?**

---

If you are not sure whether you are included in the Settlement, you may call 1-844-245-3771 with questions or visit [www.BraySecurityBreachSettlement.com](http://www.BraySecurityBreachSettlement.com). You may also write with questions to Bray et al v. GameStop Corporation, c/o Claims Administrator, PO Box 8268, Philadelphia, PA 19101-8268. Please do not contact the Court with questions.

# **THE SETTLEMENT BENEFITS**

## **7. What does the Settlement provide?**

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The Settlement will provide payments to people who submit valid claims.

There are two types of payments that are available: (1) Expense Reimbursement (Question 8) and (2) Extraordinary Expense Reimbursement (Question 9). You may submit a claim for either or both types of payments. In order to claim each type of payment, you must provide related documentation with the Claim Form.

## **8. What payments are available for Expense Reimbursement?**

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Class Members are eligible to receive reimbursement of up to \$235 (in total) for the following categories of out-of-pocket expenses resulting from the Security Incident:

- unreimbursed bank fees;
- unreimbursed card reissuance fees;
- unreimbursed overdraft fees;
- unreimbursed charges related to unavailability of funds;
- unreimbursed late fees;
- unreimbursed over-limit fees;
- long distance telephone charges;
- cell minutes (if charged by minute);
- internet usage charges and text messages;
- unreimbursed charges from banks or credit card companies;
- postage;
- interest on payday loans due to card cancelation or due to over-limit situation;
- costs of credit report(s);
- costs of credit monitoring and identity theft protection (up to \$120);
- reimbursement of up to three hours of documented lost time (at \$15 per hour) spent dealing with replacement card issues or in reversing fraudulent charges (only if at least one full hour was spent)

- and an additional \$22 payment for each credit or debit card on which documented fraudulent charges were incurred that were later reimbursed.

## **9. What payments are available for Extraordinary Expense Reimbursement?**

---

Class Members who had other extraordinary unreimbursed monetary losses because of information compromised as part of the Security Incident are eligible to make a claim for reimbursement of up to \$10,000. As part of the claim, the Class Member must show that: (1) it is an actual, documented, and unreimbursed monetary loss; (2) the loss was more likely than not caused by the Security Incident; (3) the loss occurred during the time period from August 10, 2016 through February 9, 2017; (4) the loss is not already covered by one or more of the categories in Question 8; and (5) a reasonable effort was made to avoid or seek reimbursement for the loss (including exhaustion of all available credit monitoring insurance and identity theft insurance).

More details are provided in the Settlement Agreement, which is available at [www.BraySecurityBreachSettlement.com](http://www.BraySecurityBreachSettlement.com).

## **HOW TO GET BENEFITS**

### **10. How do I get benefits?**

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To ask for a payment, you must complete and submit a Claim Form. Claim Forms are available at [www.BraySecurityBreachSettlement.com](http://www.BraySecurityBreachSettlement.com), or you may request one by mail by calling 1-844-245-3771. Read the instructions carefully, fill out the Claim Form, and mail it postmarked no later than **December 13, 2018**, to:

Bray et al v. GameStop Corporation  
c/o Claims Administrator  
PO Box 8268  
Philadelphia, PA 19101-8268

### **11. How will claims be decided?**

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The Claims Administrator will initially decide whether the information provided on a Claim Form is complete and valid. The Claims Administrator may require additional information from any claimant. If the required information is not provided timely, the claim will be considered invalid and will not be paid.

If the claim is complete and the Claims Administrator denies the claim entirely or partially, the claimant will be provided an opportunity to have their claim reviewed by an impartial Claim Referee who has been appointed by the Court.

## REMAINING IN THE SETTLEMENT

### 12. Do I need to do anything to remain in the Settlement?

---

You do not have to do anything to remain in the Settlement, but if you want a payment you must submit a Claim Form postmarked by **December 13, 2018**.

### 13. What am I giving up as part of the Settlement?

---

If the Settlement becomes final, you will give up your right to sue GameStop for the claims being resolved by this Settlement. The specific claims you are giving up against GameStop are described in Section 1.20 of the Settlement Agreement. You will be “releasing” GameStop and all related people or entities as described in Section 6 of the Settlement Agreement. The Settlement Agreement is available at [www.BraySecurityBreachSettlement.com](http://www.BraySecurityBreachSettlement.com).

The Settlement Agreement describes the released claims with specific descriptions, so read it carefully. If you have any questions you can talk to the law firms listed in Question 17 for free or you can, of course, talk to your own lawyer at your own expense if you have questions about what this means.

## EXCLUDING YOURSELF FROM THE SETTLEMENT

If you do not want a payment from this Settlement, but you want to keep the right to sue GameStop about issues in this case, then you must take steps to get out of the Settlement Class. This is called excluding yourself from – or is sometimes referred to as “opting out” of – the Settlement Class.

### 14. If I exclude myself, can I get a payment from this Settlement?

---

No. If you exclude yourself, you will not be entitled to any benefits of the Settlement, but you will not be bound by any judgment in this case.

### 15. If I do not exclude myself, can I sue GameStop for the same thing later?

---

No. Unless you exclude yourself, you give up any right to sue GameStop for the claims that this Settlement resolves. You must exclude yourself from the Settlement Class to start your own lawsuit or to be part of any different lawsuit relating to the claims in this case. If you exclude yourself, do not submit a Claim Form to ask for a payment.

### 16. How do I exclude myself from the Settlement?

---

To exclude yourself, send a letter that says you want to be excluded from the Settlement in *Bray, et al. v. GameStop Corp.*, Case No. 17-cv-01365-JEJ. Include your name, address, and signature. You must mail your Exclusion Request postmarked by **December 13, 2018**, to:

GameStop Settlement Exclusions  
PO Box 8268  
Philadelphia, PA 19101-8268

## THE LAWYERS REPRESENTING YOU

### 17. Do I have a lawyer in this case?

---

Yes. The Court appointed the following lawyers as “Class Counsel”: Benjamin F. Johns of Chemicles & Tikellis LLP, 361 W. Lancaster Avenue, Haverford, Pennsylvania 19041 and Cornelius P. Dukelow of Abington Cole + Ellery, 320 South Boston Avenue, Suite 1130, Tulsa, Oklahoma 74103. You will not be charged for these lawyers. If you want to be represented by your own lawyer, you may hire one at your own expense.

### 18. How will the lawyers be paid?

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Class Counsel will request the Court’s approval of an award for attorneys’ fees and reasonable costs and expenses of \$557,500. Class Counsel will also request approval of an incentive award of \$3,750 for each of the Representative Plaintiffs. Any amount that the Court awards for attorneys’ fees, costs, expenses, and an incentive award will be paid separately by GameStop and will not reduce the amount of payments to Class Members who submit valid claims.

## OBJECTING TO THE SETTLEMENT

You can tell the Court that you do not agree with the Settlement or some part of it.

### 19. How do I tell the Court that I do not like the Settlement?

---

You can object to the Settlement if you do not like it or some part of it. The Court will consider your views. To do so, you must file a written objection in this case, *Bray, et al. v. GameStop Corp.*, Case No. 17-cv-01365-JEJ, with the Clerk of the Court at the address below.

Your objection must include all of the following: (i) your full name, address, telephone number, and e-mail address (if any); (ii) information identifying you as a Settlement Class Member, including proof that you are a member of the Settlement Class (e.g., copy of notice, copy of original notice of the Security Incident); (iii) a written statement of all grounds for the objection, accompanied by any legal support for the objection that you believe is applicable; (iv) the identity of all counsel representing you, if any, in connection with your objection; (v) the identity of all counsel representing you who will appear at the Final Fairness Hearing; (vi) a list of all persons who will be called to testify at the Final Fairness Hearing in support of the objection; (vii) a statement confirming whether you intend to personally appear and/or testify at the Final Fairness Hearing; (viii) your signature and the signature of your duly authorized attorney or other duly authorized representative (along with documentation setting forth such representation); (ix) a list, by case name, court, and docket number, of all other cases in which you (directly or through counsel) have filed an objection to any proposed class action settlement within the last 3 years; (x) a list, by case name, court, and docket number, of all other cases in which your counsel (on behalf of any person or entity) has filed an objection to any proposed class action settlement within the last 3 years; and (xi) a list, by case name, court, and docket number, of all other cases in which you have been a named plaintiff in any class action or served as a lead plaintiff or representative plaintiff.

To be timely, your objection must be **postmarked** to the Clerk of the Court for the United States District Court for District of Delaware no later than **December 13, 2018**. In addition, you must **mail** a copy of your objection to both Class Counsel and Defense Counsel, postmarked no later than **December 13, 2018**:

COURT	CLASS COUNSEL	DEFENSE COUNSEL
Chambers of the Honorable John E. Jones III United States District Court 228 Walnut Street Harrisburg, PA 17108	Benjamin F. Johns Chimicles & Tikellis LLP 361 W. Lancaster Avenue Haverford, Pennsylvania 19041	Paul G. Karlsgodt Baker & Hostetler LLP 1801 California Street Suite 4400 Denver, CO 80202

## 20. What is the difference between objecting and asking to be excluded?

---

Objecting is telling the Court that you do not like the Settlement and why you do not think it should be approved. You can object only if you do not exclude yourself from the Class. Excluding yourself is telling the Court that you do not want to be part of the Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

## THE COURT'S FAIRNESS HEARING

The Court will hold a hearing to decide whether to grant final approval of the Settlement.

## 21. When and where will the Court decide whether to approve the Settlement?

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The Court will hold a Fairness Hearing at 9:30 a.m. on **December 19, 2018**, in Courtroom #2 at the Harrisburg Federal Courthouse located at 228 Walnut St., Harrisburg, PA 17108. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check [www.BraySecurityBreachSettlement.com](http://www.BraySecurityBreachSettlement.com) or call 1-844-245-3771. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are timely objections, the Court will consider them and will listen to people who have asked to speak at the hearing if such a request has been properly made. The Court will also rule on the request for an award of attorneys' fees and reasonable costs and expenses, as well as the request for an incentive award for the Representative Plaintiffs. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long these decisions will take.

## 22. Do I have to attend the hearing?

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No. Class Counsel will present the Settlement Agreement to the Court. You or your own lawyer are welcome to attend at your expense, but you are not required to do so. If you send an objection, you do not have to come to the Court to talk about it. As long as you filed your written objection on time with the Court and mailed it according to the instructions provided in Question 19, the Court will consider it.

## 23. May I speak at the hearing?

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You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must file an objection according to the instructions in Question 19, including all the information required by items (v), (vi), and (vii). Your Objection must be **filed** with the Clerk of the Court for the United States District Court for District of Delaware no later than **December 13, 2018**. In addition, you must **mail** a copy of your objection to both Class Counsel and Defense Counsel listed in Question 19, postmarked no later than **December 13, 2018**:

## IF YOU DO NOTHING

### **24. What happens if I do nothing?**

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If you do nothing, you will get no benefits from this Settlement. Unless you exclude yourself, after the Settlement is granted final approval and the judgment becomes final, you will not be able to start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against GameStop about the legal issues in this case, ever again.

## GETTING MORE INFORMATION

### **25. How do I get more information?**

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This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement. You can get a copy of the Settlement Agreement at [www.BraySecurityBreachSettlement.com](http://www.BraySecurityBreachSettlement.com). You may also write with questions to Bray et al v. GameStop Corporation, c/o Claims Administrator, PO Box 8268, Philadelphia, PA 19101-8268. You can also get a Claim Form at the website, [www.BraySecurityBreachSettlement.com](http://www.BraySecurityBreachSettlement.com), or by calling the toll free number, 1-844-245-3771.

Bray v. GameStop Corp.  
c/o Claims Administrator  
PO Box 8268  
Philadelphia, PA 19101-8268

POSTAGE

If you used a credit,  
debit, or other  
payment card to make  
a purchase from  
**GameStop** online,  
you may be eligible  
for a payment  
from a class action  
settlement.

<<Barcode>>

Class Member ID: <<Refnum>>

Class Member Name  
Address  
City, ST Zip

Si desea recibir esta notificación en español,  
llámenos o visite nuestra página web.

[BARCODE AREA]

The Settlement has been reached in a separate lawsuit concerning a cyber-attack against GameStop Corporation (“GameStop”) which resulted from criminals accessing its computer systems (the “Security Incident”). The Security Incident happened between August 10, 2016 and February 9, 2017, and potentially resulted in unauthorized access to customer payment card data and other personally identifying information. GameStop denies all of the claims and says it did not do anything wrong.

### WHO IS INCLUDED?

**GameStop records show you are a likely member of the Settlement Class.** The Settlement Class includes all persons residing in the United States who used a credit, debit or other payment card to make (or attempt to make) a purchase on [www.gamestop.com](http://www.gamestop.com) between August 10, 2016 and February 9, 2017.

### SETTLEMENT BENEFITS.

The Settlement provides two types of payments to people who submit valid claims: 1) Reimbursement of up to \$235 for out-of-pocket expenses and documented lost time that resulted from the Security Incident; and 2) Reimbursement of up to \$10,000 for extraordinary expenses which were more likely than not caused by the Security Incident.

### BENEFIT IS TO FILE A CLAIM.

To get a Claim Form, visit the website or call 1-844-245-3771. The claim deadline is **December 13, 2018.**

### OTHER OPTIONS.

If you do nothing, you will remain in the class, you will not be eligible for benefits, and you will be bound by the decisions of the Court and give up your rights to sue GameStop for the claims resolved by this Settlement. If you do not want to be legally bound by the Settlement, you must request to be excluded by **December 13, 2018.** The court will exclude you from the Settlement if requested by that date. If you stay in the Settlement, you may object to it by **December 13, 2018.** A more detailed notice is available to explain how to exclude yourself or object. Please visit the website or call 1-844-245-3771 for a copy of the more detailed notice. On **December 19, 2018,** the Court will hold a Fairness Hearing to determine whether to approve the Settlement, Class Counsel’s request for attorneys’ fees and reasonable costs of \$557,500, and an Incentive Award of \$3,750 for each of the Representative Plaintiffs. The Motion for attorneys’ fees will be posted on the website after they are filed. You or your own lawyer, if you have one, may ask to appear and speak at the hearing at your own cost, but you do not have to. This is only a summary. For more information, call or visit the website below.

\_\_\_\_\_  
\_\_\_\_\_

Place  
Stamp  
Here

Bray et al v. GameStop Corporation  
c/o Claims Administrator  
PO Box 8268  
Philadelphia, PA 19101-8268

<<refnum barcode>>

Class Member ID: <<refnum>>. <<Firstname>> <<LastName>>

## **Record Update Verification**

**Only complete and return this if you are updating your address. This is NOT a claim Form. Do not return this if you will be submitting a Claim Form. If you have an address different from where this postcard was mailed to, please write your correct address below and return this portion to the address provided on the other side.**

**Name:** \_\_\_\_\_

**Address:** \_\_\_\_\_

**City:** \_\_\_\_\_

**State:** \_\_\_ \_\_\_ **ZIP:** \_\_\_ \_\_\_ \_\_\_ \_\_\_ - \_\_\_ \_\_\_ \_\_\_

**Country:** \_\_\_\_\_





Class Member ID: 3100300000000

**PLEASE PROVIDE THE INFORMATION LISTED BELOW:**

Check the box for each category of out-of-pocket expenses, fraudulent charges, or lost time that you had to pay as a result of the GameStop Security Incident. Please be sure to fill in the total amount you are claiming for each category and to attach documentation of the charges as described in **bold type** (if you are asked to provide account statements as part of proof required for any part of your claim, you may mark out any unrelated transactions if you wish).

**a. Ordinary Expenses Resulting from the Security Incident:**

**a.1** Fees or other charges from your bank or credit card company due to fraudulent activity on your card.

*Examples - Overdraft fees, over-the-limit fees, late fees, or charges due to insufficient funds or interest.*

Total amount for this category \$ \_\_\_\_\_

**Attach a copy of a bank or credit card statement or other proof of the fees or charges.**

**Do not send originals.** You should mark out (redact) any transactions that were not fraudulent and any other information that is not relevant to your claim before sending in the documentation.

**a.2** Fees or charges relating to the reissuance of your credit or debit card.

*Examples – Fees that your bank charged you because you requested a new credit or debit card.*

Total amount for this category \$ \_\_\_\_\_

**Attach a copy of a bank or credit card statement or other receipt showing these fees.**

**Do not send originals.** You should mark out (redact) any transactions that were not fraudulent and any other information that is not relevant to your claim before sending in the documentation.

**a.3** Fees relating to your account being frozen or unavailable.

*Examples - You were charged a late fee or interest by another company because your payment was declined. You had to pay a fee for a money order or other form of alternative payment because you could not use your debit or credit card.*

Total amount for this category \$ \_\_\_\_\_

**Attach a copy of receipts, bank or credit card statements, or other proof that you had to pay these expenses.**

**Do not send originals.** You should mark out (redact) any transactions that were not fraudulent and any other information that is not relevant to your claim before sending in the documentation.

**a.4** Other incidental telephone, internet, or postage expenses directly related to the Security Incident.

*Examples - Long distance phone charges, cell phone charges (only if charged by the minute), data charges (only if charged based on the amount of data used)*

Total amount for this category \$ \_\_\_\_\_

**Attach a copy of the bill from your telephone or mobile phone company or internet service provider that shows the charges.**

**Do not send originals.** You should mark out (redact) any transactions that were not fraudulent and any other information that is not relevant to your claim before sending in the documentation.



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Class Member ID: 3100300000000

**a.5 Credit reports, identity theft insurance, or credit monitoring charges.**

*Examples – The cost of a credit report, identity theft insurance, or credit monitoring services that you purchased after hearing about the GameStop Security Incident.*

Total amount for this category \$ \_\_\_\_\_

**Attach a copy of a receipt or other proof of purchase for each credit report or product purchased. Do not send originals.** You should mark out (redact) any transactions that were not fraudulent and any other information that is not relevant to your claim before sending in the documentation.

**a.6 Between one and three hours of documented time spent dealing with replacement card issues or in reversing fraudulent charges that occurred as a result of the Security Incident.**

*Examples – You spent at least one full hour calling customer service lines, writing letters or emails, or on the Internet in order to get fraudulent charges reversed or in updating automatic payment programs because your card number changed. Please note that the time that it takes to fill out this Claim Form is not reimbursable and should not be included in the total.*

Total number of hours claimed \_\_\_\_\_

**If the time was spent online or on the telephone, briefly describe what you did, or attach a copy of any letters or emails you wrote. If the time was spent trying to reverse fraudulent charges, briefly describe what you did. If the time was spent updating accounts due to your card being reissued, identify the other accounts that had to be updated.**

**Do not send originals.** You should mark out (redact) any transactions that were not fraudulent and any other information that is not relevant to your claim before sending in the documentation.

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**b. Reimbursed Fraudulent Charges**

**b.1 Did you also have fraudulent charges to a debit or credit card account that were reversed or repaid? (If so, in addition to your out-of-pocket expenses, you are eligible to claim a \$22 cash payment for each debit or credit card on which fraudulent charges were made and reversed or repaid, to compensate you for lost time associated with seeking reimbursement for the fraud. See Section 2.1 of the Settlement Agreement.)**

If so, how many cards had fraudulent charges that were reversed or repaid? \_\_\_\_\_

**For each card, provide a card statement or other documentation showing:**

- 1) One or more fraudulent charges were posted to your account that you believe were caused by the GameStop Security Incident; and
- 2) The charges were later reversed or reimbursed by the bank or credit card company.

**Do not send originals.** You should mark out (redact) any transactions that were not fraudulent and any other information that is not relevant to your claim before sending in the documentation.



Class Member ID: 3100300000000

**c. Extraordinary Expenses**

**c.1 Unreimbursed fraudulent charges.**

*Examples – Fraudulent charges that were made on your credit or debit card account and that were not reversed or repaid even though you reported them to your bank or credit card company. Note, most banks are required to reimburse customers in full for fraudulent charges on payment cards that they issue.*

Total amount for this category \$\_\_\_\_\_

**Attach a copy of statements that show the fraudulent charges and any correspondence showing that you reported the charges as fraudulent. If you do not have anything in writing, tell us the approximate date that you reported and to whom you reported the fraudulent charge.**

*You may mark out any transactions that were not fraudulent and any other information that is not relevant to your claim before sending in the documentation.*

Date reported \_\_\_\_\_

Description of the person(s) to whom you reported the fraud  
\_\_\_\_\_  
\_\_\_\_\_

Check this box to confirm that you have exhausted all applicable insurance policies, including credit monitoring insurance and identity theft insurance, and that you have no insurance coverage for these fraudulent charges.

**c.2 Other unreimbursed out-of-pocket expenses that happened because of the GameStop Security Incident that are not accounted for in your responses above.**

*Examples – This category includes any other unreimbursed expenses or charges that are not otherwise accounted for in your answers to the questions above, including any expenses or charges that you believe were the result of an act of identity theft.*

Total amount for this category \$\_\_\_\_\_

**Describe the expense, why you believe that they are related to the GameStop Security Incident, and provide as much detail as possible about the date you incurred these expenses and the company or person to whom you had to pay them. Please provide copies of any receipts, police reports, or other documentation supporting your claim. The settlement administrator may contact you for additional information before processing your claim.**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Check this box to confirm that you have exhausted all credit monitoring insurance and identity theft insurance you might have for these out-of-pocket expenses before submitting this Claim.



Class Member ID: 3100300000000

### 3. SIGN AND DATE YOUR CLAIM FORM.

I declare under penalty of perjury under the laws of the United States and the laws of my State of residence that the information supplied in this claim form by the undersigned is true and correct to the best of my recollection, and that this form was executed on the date set forth below.

I understand that I may be asked to provide supplemental information by the Claims Administrator or Claims Referee before my claim will be considered complete and valid.

<b>SIGNATURE:</b> _____	<b>PRINTED NAME:</b> _____
<b>DATED:</b> ___ / ___ / _____	

### 4. MAIL YOUR CLAIM FORM.

This claim form must be postmarked by **December 13, 2018** and mailed to:

Bray et al v. GameStop Corporation  
 c/o Claims Administrator  
 PO Box 8268  
 Philadelphia, PA 19101-8268



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# Exhibit C

## Exclusion Requests

1. CHRISTOPHER BARRETT
2. CHRISTOPHER PRAGER
3. DAVID GUENTHER
4. AARON PATTILLO
5. CAROLIN GLENDENNING
6. ADAM BUGG
7. ADAM STONE
8. JOHN SAULS
9. CORY SEIDEL
10. JOHN COLLISON
11. FRANK DILUZIO
12. ELISABETH TINSLEY
13. BETTE GRANDJEAN
14. ALEXANDER KUZNETSOV
15. DIANA JOHNSON
16. BRETT KRAUSS
17. DIXIANA EYTCHISON
18. KAITLIN KROLL
19. WILLIAM FUENTES
20. OSCAR TRUJILLO
21. ROBERT TAVENNER
22. SARA GREEN
23. SARAH SCHNIPER
24. SHALLAN DE LOS SANTOS
25. STEPHEN DOAN
26. STEVEN MULLENEAUX
27. SUSIE BELOCORA